

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

THOMAS K. MILLS,

Plaintiff,

v.

ZACHERY JONES, et al.

Defendants.

Case No. 1:23-cv-1214 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS DENYING  
PLAINTIFF’S THIRD MOTION FOR  
SUMMARY JUDGMENT**

(Docs. 55, 57)

Thomas K. Mills asserts the defendants violated his civil rights during Plaintiff’s incarceration at North Kern State Prison and moved for summary judgment on his claims. (Doc. 55.) The magistrate judge found Plaintiff’s third motion for summary judgment was premature because the Court issued its scheduling order—and thereby opened discovery in the action—less than two weeks before Plaintiff filed his motion. (*See* Doc. 37 at 2.) Therefore, the magistrate judge recommended the motion be denied. (*Id.* at 3.)

The Court served the Findings and Recommendations on Plaintiff and notified him that any objections were to be filed within 14 days after service. (Doc. 57 at 3.) The Court advised him that the “failure to file objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the time to do so has passed.

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.

1 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
2 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 3 1. The Findings and Recommendations issued on April 23, 2024 (Doc. 57) are  
4 **ADOPTED** in full.
- 5 2. Plaintiff's third motion for summary judgment filed on April 22, 2024 (Doc. 55) is  
6 **DENIED** without prejudice as premature.

7  
8 IT IS SO ORDERED.

9 Dated: **May 21, 2024**

  
UNITED STATES DISTRICT JUDGE